

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of the complaint of)	
CALVIN R. GRANT against COMCAST)	Case No. U-18227
CABLE COMMUNICATIONS, LLC.)	
_____)	

At the July 12, 2017 meeting of the Michigan Public Service Commission in Lansing,
Michigan.

PRESENT: Hon. Sally A. Talberg, Chairman
Hon. Norman J. Saari, Commissioner
Hon. Rachael A. Eubanks, Commissioner

ORDER

On January 3, 2017, Calvin R. Grant filed a complaint against Comcast Cable Communications, LLC (Comcast), alleging that Comcast improperly billed him more than the agreed upon price for service. Comcast filed an answer on February 27, 2017, denying complainant's allegations.

An evidentiary hearing was scheduled for March 7, 2017, before Administrative Law Judge Dennis W. Mack (ALJ). Prior to the hearing, Mr. Grant advised the Commission Staff (Staff) that he was unable to attend the hearing and it was unlikely he would be able to travel to Lansing for a re-scheduled hearing date. 1 Tr 3. The ALJ adjourned the hearing because Comcast indicated that its representative would contact Mr. Grant and attempt to resolve his complaint informally. *Id.*

On March 14, 2017, the Staff received a letter from Mr. Grant indicating that the attempt to resolve his complaint informally was unsuccessful and reiterating his inability to travel to Lansing for a hearing. *Id.* In response to Mr. Grant's letter, the ALJ sent a letter dated March 15, 2017, to

Mr. Grant advising him that the only way the Commission could hear and decide his complaint was to develop an evidentiary record through a hearing. *Id.* The ALJ rescheduled the hearing for April 13, 2017.

Several days prior to the rescheduled hearing, Mr. Grant again contacted the Staff and indicated that he was unable to travel to Lansing for the hearing. *Id.* The ALJ conducted the evidentiary hearing on April 13, 2017. Comcast and the Staff participated in the hearing.

The ALJ issued an oral Proposal for Decision (PFD) at the close of the hearing. In his PFD, the ALJ found that under Mich Admin Code, R 792.10446 (Rule 446), by filing a complaint, Mr. Grant assumed the burden of proving his allegations and producing evidence in support of his arguments. *Id.* The ALJ also found that per Mich Admin Code, R 792.1407 (Rule 407), absent a Commission ruling to the contrary, hearings are to be held in Lansing. *Id.* The ALJ opined that because Mr. Grant did not appear at the hearing in Lansing and did not make an evidentiary presentation at the hearing, he did not sustain his burden of proof. The ALJ recommended that Mr. Grant's complaint be dismissed.

The ALJ provided the parties an opportunity to file exceptions to the PFD by May 12, 2017, and replies, if necessary, on May 26, 2017. No party filed exceptions.

Discussion

The Commission agrees with the ALJ that based on Rule 446, the complainant generally sustains the burden of proof in formal complaint cases before the Commission. The best and most effective avenue for the complainant to sustain this burden is through an in-person hearing. However, the Commission recognizes that due to extenuating circumstances, there have been cases where an ALJ has permitted a complaint hearing to take place via telephone. Rule 407 allows the Commission to direct that a hearing may be held in a location other than Lansing. The

Commission interprets Rule 407 to mean that it is within the ALJ's discretion to decide whether the hearing takes place in person or via telephone, and whether the hearing takes place in Lansing or in another location. Due to the circumstances in this case and the Commission's desire to be accessible to the public, the Commission finds that the case should be remanded to the ALJ and the ALJ should offer the complainant the opportunity to have a telephone hearing. Should the complainant refuse the opportunity for a telephone hearing, or should the complainant be unavailable to participate in the telephone hearing on the day and time it is scheduled, the ALJ shall transmit the case to the Commission for dismissal with prejudice.

THEREFORE, IT IS ORDERED that the complaint of Calvin R. Grant against Comcast Cable Communications, LLC, is remanded to the Administrative Law Judge for further proceedings as described in this order.

The Commission reserves jurisdiction and may issue further orders as necessary.

Any party desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order under MCL 462.26. To notify the Commission of an appeal, appellants shall send required notices to both the Commission's Executive Secretary and to the Commission's Legal Counsel. Electronic notifications should be sent to the Executive Secretary at mpscedockets@michigan.gov and to the Michigan Department of the Attorney General - Public Service Division at pungpl@michigan.gov. In lieu of electronic submissions, paper copies of such notifications may be sent to the Executive Secretary and the Attorney General - Public Service Division at 7109 W. Saginaw Hwy., Lansing, MI 48917.

MICHIGAN PUBLIC SERVICE COMMISSION

Sally A. Talberg, Chairman

Norman J. Saari, Commissioner

Rachael A. Eubanks, Commissioner

By its action of July 12, 2017.

Kavita Kale, Executive Secretary